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UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE
WASHINGTON, D. C.

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RULES AND REGULATIONS

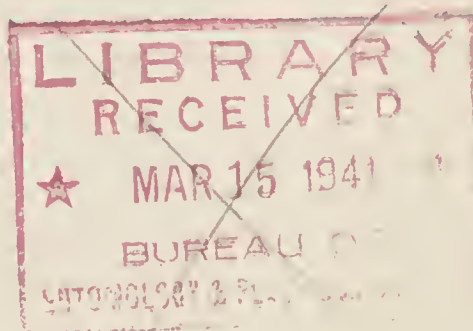
OF

Bureau of Entomology and Plant Quarantine

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1938 Supplement Chapter III, Title 7, of the
Code of Federal Regulations

Effective December 31, 1938



UNITED STATES
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CHAPTER III—BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

DEPARTMENT OF AGRICULTURE

PART 301—DOMESTIC QUARANTINE NOTICES

Mediterranean Fruitfly and Melon Fly

§ 301.13-2a *Administrative instructions, sterilization of fruits and vegetables from Hawaii*—(a) *Authority*. Under the authority contained in the first proviso of § 301.13-2, provision is hereby made for the certification of fruits and vegetables for movement from the Territory of Hawaii into or through any State, Territory or District of the United States when the following treatments are applied in Hawaii at plants designated for this purpose by the United States Department of Agriculture and under the supervision of the inspectors of the Bureau of Entomology and Plant Quarantine.

(b) *Treatments*. (1) Cooling until the approximate center of the fruit or vegetable reaches a temperature of 35° F. and holding the fruit or vegetable so the inside temperature does not exceed 35° F. for a period of 15 days.

(2) Heating the fruit or vegetable until the approximate center reaches 110° F. and holding this temperature for a period of 8 hours.

(c) *Loading*. *Provided*, That in the issuance of permits fruits and vegetables so treated shall be moved and handled by the treating plant and loaded on ships in a manner which, in the judgment of the inspectors, will preclude fruit-fly infestation subsequent to treatment.

(d) *Care in treatment*. In authorizing the entry of fruits and vegetables into the mainland of the United States under the provisions of this section, it should be emphasized that inexactness and carelessness in applying the treatment may result in injury to fruits or vegetables or to their rejection.

(e) *No liability assumed by Department*. The treatment required under the provisions of this section represents the requirements necessary for the elimination of pest risk and no liability shall be attached to the United States Department of Agriculture or to any officer or representative of that Department in event of injury resulting to fruit or vegetable offered for entry under the provisions of this section. It should also be emphasized that evidence based on trial shipments under conditions of transportation from Hawaii is not available to demonstrate that fruits and vegetables will be marketable after the application of the treatments here authorized, and that any fruits or vegetables treated and shipped under the provisions of this section are at the risk of the shipper. (Issued under § 301.13-2) [BEPQ 481, Chief, BEPQ, Oct. 19, 1938; 3 F.R. 2515]

Gypsy Moth and Brown-tail Moth

QUARANTINE

§ 301.45 *Notice of quarantine*. I, Harry L. Brown, Acting Secretary of Agriculture, have determined that it is necessary to quarantine the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, to prevent the spread of two injurious insects—the gypsy moth (*Porthetria dispar* L.) and the brown-tail moth (*Nygmia phaeorrhoea* Don.)—not heretofore widely distributed within and throughout the United States.

Now, therefore, I, Harry L. Brown, Acting Secretary of Agriculture, under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315; 7 U.S.C. 161), as amended, do hereby quarantine the States of Maine, New Hampshire, Vermont, Mas-

sachusetts, Rhode Island, and Connecticut, and by this notice of quarantine do order that (1) coniferous trees, such as spruce, fir, hemlock, pine, juniper (cedar), and arborvitae (white cedar), without roots, known and described as "Christmas trees," and parts thereof, and evergreen decorative plants, such as boxwood, holly, and laurel, and parts thereof, known and described as "Christmas greens and greenery;" (2) forest-plant products, including logs, tanbark, posts, poles, car stakes, railroad ties, cordwood, empty cable reels, and lumber; (3) trees, shrubs, vines, and all plants having persistent woody stems, and parts of such plants excepting seeds and fruit; and (4) stone and quarry products, shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from any of said quarantined States into or through any other State or Territory or District of the United States in manner or method or under conditions other than those prescribed in the rules and regulations hereinafter made and amendments thereto: *Provided*, That the restrictions of this quarantine and of the rules and regulations supplemental thereto may be limited to the areas, in a quarantined State, now or hereafter designated by the Secretary of Agriculture as regulated areas, when said State shall have provided for and enforced such control and regulatory measures with respect to such designated areas as, in the judgment of the Secretary of Agriculture, shall be deemed adequate to prevent the spread of the gypsy moth and brown-tail moth: *And provided further*, That, whenever, in any year, the Chief of the Bureau of Entomology and Plant Quarantine shall find that facts exist as to the pest risk involved in the movement of one or more of the articles enumerated in the regulations supplemental hereto, making it safe to modify, by making less stringent, the restrictions contained in any such regulation, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulation should be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof as shall be specified in

said administrative instructions, and a copy thereof shall be mailed to the common carriers doing business in the quarantined area affected and every reasonable effort shall be made to give publicity to the said modification of the regulation in the area affected.* [Notice of Quarantine No. 45 (Revised) Sept. 28, 1938; 3 F.R. 2342]

*§§ 301.45 to 301.45-10, inclusive, issued under the authority contained in 39 Stat. 1165, 44 Stat. 250; 7 U.S.C. 161.

RULES AND REGULATIONS

§ 301.45-1 *Definitions*. For the purpose of these regulations the following words, names, and terms shall be construed, respectively, to mean:

(a) *Gypsy moth*. The insect known as the gypsy moth (*Porthetria dispar* L.).

(b) *Brown-tail moth*. The insect known as the brown-tail moth (*Nygmia phaeorrhoea* Don., formerly referred to as *Euproctis chrysorrhoea*).

(c) *Quarantined area*. Any State quarantined by the Secretary of Agriculture upon determination by him that either the gypsy moth or the brown-tail moth, or both, exist therein.

(d) *Regulated area*. The entire area comprised of portions of the quarantined States now or hereafter designated by the Secretary of Agriculture as regulated to prevent the spread of the gypsy moth or brown-tail moth, or both, therefrom.

(e) *Generally infested area*. The entire area comprised of portions of the quarantined States now or hereafter designated by the Secretary of Agriculture as generally infested with the gypsy moth.

(f) *Lightly infested area*. The entire area comprised of portions of the quarantined States now or hereafter designated by the Secretary of Agriculture as lightly infested with the gypsy moth.

(g) *Brown-tail moth infested area*. The entire area comprised of portions of the quarantined States now or hereafter designated by the Secretary of Agriculture as infested with the brown-tail moth.

(h) *Restricted articles*. (1) Coniferous trees, such as spruce, fir, hemlock, pine, juniper (cedar), and arborvitae (white cedar), without roots, known and

described as "Christmas trees", and parts thereof, and evergreen decorative plants, such as boxwood, holly, and laurel, and parts thereof; (2) forest-plant products, including logs, tanbark, posts, poles, car stakes, railroad ties, cordwood, empty cable reels, and lumber; (3) trees, shrubs, vines, and all plants having persistent woody stems, and parts of such plants, excepting seeds and fruit; and (4) stone and quarry products.

(i) *Moved interstate; interstate movement.* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from one State of the United States into or through any other State or Territory or District.

(j) *Inspector.* An inspector of the United States Department of Agriculture.*†

†In §§ 301.45-1 to 301.45-10, inclusive, the numbers to the right of the dash correspond with the respective regulation numbers in Rules and Regulations (8th Revision), Secretary of Agriculture, Sept. 28, 1938, effective Sept. 29, 1938; 3 F.R. 2342.

§ 301.45-2 *Limitation of restrictions to regulated areas; designation of regulated areas; generally infested area; lightly infested area; brown-tail moth infested area.* (a) *Regulated areas.* Conditioned upon maintenance on the part of the State concerned of action deemed adequate by the Secretary of Agriculture to prevent the spread of the gypsy moth and brown-tail moth or both such moths, from the regulated area or areas to other parts of the State, the restrictions of these regulations are limited to the following areas:

Connecticut. Counties of Hartford, Middlesex, New London, Tolland, and Windham; towns of Barkhamsted, Colebrook, Harwinton, New Hartford, Plymouth, Thomaston, Torrington, and Winchester, in Litchfield County; towns of Branford, Guilford, Madison, Meriden, North Branford, North Haven, Waterbury, and Wolcott, in New Haven County.

Maine. Counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, and York; towns of Avon, Berlin, Carthage, Chesterville, Crockertown, Dallas Plantation, Farmington, Freeman, Greenvale, Industry, Jay, Jerusalem, Kingfield, Madrid,

Mount Abraham, New Sharon, New Vineyard, Perkins, Phillips, Rangeley Plantation, Redington, Salem, Sandy River Plantation, Strong, Temple, Washington, Weld, and Wilton, and Townships D and E, in Franklin County; all of Hancock County except Plantations 3, 4, 35, and 41; all that part of Oxford County south and southeast of and including the towns of Magalloway and Richardsontown; towns of Alton, Argyle, Bradford, Bradley, Carmel, Charleston, Clifton, Corinna, Corinth, Dexter, Dixmont, Eddington, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Hudson, Kenduskeag, Levant, Milford, Newburgh, Newport, Orono, Orrington, Plymouth, Stetson, Summit, and Veazie, and cities of Bangor, Brewer, and Old Town, in Penobscot County; towns of Abbott, Atkinson, Dover, Foxcroft, Guilford, Kingsbury Plantation, Parkman, Sangerville, and Wellington, in Piscataquis County; all that part of Somerset County south and southeast of and including Highland and Pleasant Ridge Plantations, town of Moscow, and Mayfield Plantation; towns of Beddington, Cherryfield, Columbia, Deblois, Harrington, Millbridge, and Steuben, and Plantations 18 and 24, in Washington County.

Massachusetts. Counties of Barnstable, Bristol, Dukes, Essex, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester; all of Franklin County except the town of Monroe.

New Hampshire. Counties of Belknap, Carroll, Cheshire, Grafton, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; all that part of Coos County lying south of and including the towns of Stratford, Odell, Dummer, and Cambridge.

Rhode Island. The entire State.

Vermont. Counties of Orange, Windham, and Windsor; towns of Landgrove, Peru, Readsboro, Searsburg, and Winhall, in Bennington County; towns of Barnet, Danville, Groton, Kirby, Peacham, Rye-gate, St. Johnsbury, and Waterford, in Caledonia County; towns of Concord, Granby, Guildhall, Lunenburg, Maidstone, and Victory, in Essex County; town of Elmore in Lamoille County; towns of

Mount Holly, Mount Tabor, Pittsfield, Sherburne, Shrewsbury, and Wallingford, in Rutland County; towns of Barre, Berlin, Cabot, Calais, East Montpelier, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Plainfield, Roxbury, Waitsfield, Woodbury, and Worcester, in Washington County.

(b) *Division of regulated area.* For the purpose of regulating inspection and transportation, the territory designated above is divided into two classes of areas to be known as the "generally infested" and "lightly infested" areas respectively, and part of such regulated area is also designated as "brown-tail moth infested."

(c) *Lightly infested area.* The following States, counties, townships, towns, plantations, cities, and other political subdivisions, including any cities, towns, boroughs, or other political subdivisions included within their limits, are designated as the lightly infested area:

Connecticut. County of Middlesex; towns of Avon, Berlin, Bristol, Burlington, Farmington, Marlboro, New Britain, Newington, Plainville, Rocky Hill, Southington, and West Hartford, in Hartford County; towns of Colebrook, Harwinton, New Hartford, Plymouth, Thomaston, Torrington, and Winchester, in Litchfield County; towns of Branford, Guilford, Madison, Meriden, North Branford, North Haven, Waterbury, and Wolcott, in New Haven County; towns of East Lyme, Lyme, and Old Lyme, in New London County.

Maine. Towns of Avon, Berlin, Carthage, Crockertown, Dallas Plantation, Freeman, Greenvale, Jerusalem, Kingfield, Madrid, Mount Abraham, New Vineyard, Perkins, Phillips, Rangeley Plantation, Redington, Salem, Sandy River Plantation, Strong, Temple, Washington, and Weld, and Townships D and E, in Franklin County; towns of Amherst, Aurora, Bucksport, Dedham, Eastbrook, Franklin, Gouldsboro, Hancock, Lamoine, Mariaville, Orland, Osborn Plantation, Otis, Penobscot, Sorrento, Sullivan, Trenton, Verona, Waltham, city of Ellsworth, and townships or plantations numbered 7, 8, 9, 10, 16, 22, 28, 32, 33, 34, 39, and 40, in Hancock County; towns of Andover, Andover North surplus, Byron, C., C. surplus, Grafton, Hanover, Magalloway, Newry, Richardsontown, Riley Grant,

Roxbury, and Upton, in Oxford County; towns of Alton, Argyle, Bradford, Bradley, Carmel, Charleston, Clifton, Corinna, Corinth, Dexter, Dixmont, Eddington, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Hudson, Kenduskeag, Levant, Milford, Newburgh, Newport, Orono, Orrington, Stetson, Summit, and Veazie, and cities of Bangor, Brewer, and Old Town, in Penobscot County; towns of Abbott, Atkinson, Dover, Foxcroft, Guilford, Kingsbury Plantation, Parkman, Sangerville, and Wellington, in Piscataquis County; towns of Anson, Athens, Bingham, Brighton Plantation, Cambridge, Concord, Cornville, Embden, Harmony, Hartland, Highland, Lexington, Madison, Mayfield, Moscow, New Portland, Palmyra, Pleasant Ridge Plantation, Ripley, St. Albans, and Solon, in Somerset County; towns of Brooks, Frankfort, Jackson, Knox, Monroe, Prospect, Searsport, Stockton Springs, Swanville, Thordike, Waldo, Winterport, and the city of Belfast, in Waldo County; towns of Beddington, Cherryfield, Columbia, Deblois, Harrington, Millbridge, and Steuben, and Plantations 18 and 24, in Washington County.

Massachusetts. Towns of Charlemont, Hawley, Heath, and Rowe, in Franklin County; towns of Chester and Tolland, in Hampden County; towns of Cummington, Huntington, Middlefield, Plainfield, and Worthington, in Hampshire County.

New Hampshire. Town of Hart Location, in Carroll County; towns of Beans Grant, Cambridge, Carroll, Chandler Purchase, Crawford Grant, Crawford Purchase, Cutts Grant, Dalton, Dummer, Hadleys Purchase, Jefferson, Kilkenny, Lancaster, Low & Burbank Grant, Milan, Nash & Sawyer Location, Northumberland, Odell, Randolph, Sargent Purchase, Stark, Stratford, Success, Thompson & Meserve Purchase, and Whitefield, in Coos County; towns of Bath, Bethlehem, Franconia, Landaff, Lisbon, Littleton, Lyman, and Monroe, in Grafton County.

Rhode Island. Town of New Shoreham (Block Island), in Newport County.

Vermont. Towns of Landgrove, Peru Readsboro, Searsburg, and Winhall, in Bennington County; towns of Barnet, Danville, Groton, Kirby, Peacham, Rye-

gate, St. Johnsbury, and Waterford, in Caledonia County; towns of Concord, Granby, Guildhall, Lunenburg, Maidstone, and Victory, in Essex County; town of Elmore in Lamoille County; towns of Braintree, Brookfield, Chelsea, Corinth, Orange, Randolph, Topsham, Strafford, Tunbridge, Vershire, Washington, West Fairlee, and Williamstown, in Orange County; towns of Mount Holly, Mount Tabor, Pittsfield, Sherburne, Shrewsbury, and Wallingford, in Rutland County; towns of Barre, Berlin, Cabot, Calais, East Montpelier, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Plainfield, Roxbury, Waitsfield, Woodbury, and Worcester, in Washington County; towns of Brookline, Dover, Halifax, Jamaica, Londonderry, Marlboro, Newfane, Somerset, Stratton, Townshend, Wardsboro, Whittingham, Wilmington, and Windham, in Windham County; towns of Andover, Baltimore, Barnard, Bethel, Bridgewater, Cavanaugh, Ludlow, Plymouth, Pomfret, Reading, Rochester, Royalton, Sharon, Stockbridge, Weston, West Windsor, and Woodstock, in Windsor County.

(d) *Generally infested area.* All parts of the regulated area not designated as lightly infested in paragraph (c) hereof, shall comprise the generally infested area.

(e) *Brown-tail moth infested area.* The following counties, towns, and other political subdivisions, including any cities, boroughs, or other political subdivisions included within their limits, are also infested with the brown-tail moth and are hereby designated as the brown-tail moth infested area:

Maine. Counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, and York; towns of Chesterville, Farmington, Industry, Jay, New Sharon, and Wilton, in Franklin County; towns of Bar Harbor, Bucksport, Orland, Surry, and Trenton, and the city of Ellsworth, in Hancock County, and all territory west and south of said towns in said county; towns of Albany, Bethel, Brownfield, Buckfield, Canton, Denmark, Dixfield, Fryeburg, Greenwood, Hartford, Hebron, Hiram, Lovell, Mason, Milton Plantation, Norway, Oxford, Paris, Peru, Porter, Rumford, Stoneham, Stow, Sumner, Sweden, Waterford, and Woodstock,

in Oxford County; cities of Bangor and Brewer, and towns of Carmel, Dixmont, Etna, Hampden, Hermon, Newburgh, Orrington, and Plymouth, in Penobscot County; and towns of Canaan, Fairfield, Mercer, Norridgewock, Pittsfield, Skowhegan, Smithfield, and Starks, in Somerset County.

Massachusetts. Counties of Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, and Suffolk; towns of Ashburnham, Berlin, Blackstone, Bolton, Boyleston, Clinton, Douglas, Fitchburg, Gardner, Grafton, Harvard, Holden, Hopedale, Lancaster, Leominster, Lunenburg, Mendon, Millford, Millbury, Millville, Northborough, Northbridge, Paxton, Princeton, Royalston, Shrewsbury, Southboro, Sterling, Sutton, Templeton, Upton, Uxbridge, Webster, West Bolyston, Westboro, Westminster, and Winchendon, and the city of Worcester, in Worcester County.

New Hampshire. Counties of Belknap, Cheshire, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; all of Carroll County except the town of Jackson; all of Grafton County except the towns of Bethlehem and Littleton.

Vermont. Towns of Barnet and Rye-gate, in Caledonia County; towns of Bradford, Fairlee, Newbury, Thetford, and West Fairlee, in Orange County; towns of Brattleboro, Dummerston, Putney, Rockingham, Vernon, and Westminster, in Windham County; towns of Hartford, Hartland, Norwich, Springfield, Weatherford, West Windsor, and Windsor, in Windsor County.*†

§ 301.45-3 *Control of movement of restricted articles—(a) Certification required.* Except as otherwise provided in this section:

No restricted articles as defined in § 301.45-1 shall be moved interstate from the regulated areas to or through any point outside thereof, nor from the generally infested area to the lightly infested area, unless and until a certificate or permit shall have been issued therefor by an inspector.

(b) *Christmas trees and evergreen boughs.* Coniferous trees, such as spruce, fir, hemlock, pine, juniper (cedar), and arbovitae (white cedar), without roots, known and described as "Christmas trees", and parts thereof over

*For statutory citation, see note to § 301.45.

†For source citation, see note to § 301.45-1.

1 foot in length, originating in the generally infested area (unless grown as nursery stock in a cultivated nursery and certified under the provisions of § 301.45-4), shall not be moved interstate to any point outside of such area and no certificate or permit will be issued authorizing such movement. Such articles which have originated in the lightly infested area may be moved interstate from the generally infested area under the inspection and certification prescribed in paragraph (a) hereof.

(c) *Shipments from brown-tail moth infested area.* Except as provided in paragraph (e) hereof no deciduous trees or shrubs, or such branches or other parts thereof as bear leaves, shall be moved interstate from the area designated as infested by the brown-tail moth to any point outside thereof unless and until a certificate or permit shall have been issued therefor by an inspector, except that as to such movement wholly within the generally infested gypsy-moth area or wholly within the lightly infested gypsy-moth area, or from the lightly infested to the generally infested gypsy-moth area, a valid State nursery inspection certificate of the State from which the shipment is made may be substituted for such Federal certificate or permit.

(d) *Shipments within regulated areas unrestricted.* Other than as prescribed in paragraph (c) hereof, and in § 301.45-7, no restrictions are placed by these regulations on the interstate movement of restricted articles wholly within the generally infested area or wholly within the lightly infested area or from the lightly infested area to the generally infested area.

(e) *Cut flowers and greenhouse-grown plants.* In the case of woody plants which are grown in the greenhouse throughout the year, the plants themselves and the cut flowers thereof may be moved interstate without inspection or certification¹ under these regulations on condition that each box or package thereof is plainly labeled to show that the contents were greenhouse grown.

¹ Shipments of such plants and flowers from the area regulated under § 301.48 are subject to the certification requirements of that quarantine.

(f) *Herbaceous plants unrestricted.* No restrictions¹ are placed by these regulations on the interstate movement of strawberry plants, or of other herbaceous annual or perennial plants or parts thereof.*†

§ 301.45-4 *Conditions governing the issuance of certificates of inspection—*

(a) *Application; assembly of articles for inspection.* Persons intending to move restricted articles interstate shall make application therefor as far as possible in advance of the probable date of shipment. Applications must show the nature and quantity of the plants or plant products or stone and quarry products it is proposed to move, together with their exact location, and, if practicable, the contemplated date of shipment. Applicants for inspection will be required to assemble or indicate the articles to be moved interstate so that they can be readily examined by the inspector. If not so placed, inspection will be refused. Articles to be inspected must be free from ice and snow and in condition to make inspection easily practicable.

(b) *Nursery-grown stock.* With respect to nursery-grown stock, Federal inspection and the issuance of Federal certificates authorizing the interstate movement of nursery products will be conditioned on the presentation of a valid State certificate stating that the nursery or lot of nursery stock in question has been inspected by a State nursery inspector and certifying that it is apparently free from infestation with gypsy and brown-tail moths. Such State certification shall be renewed each year, shall be based on an inspection made as promptly as practicable after the egg-laying period of the gypsy moth, and shall be valid for the purpose of Federal certification, until the following egg-hatching period, except that, pending reinspection, shipments may be inspected and certified for interstate movement on the basis of the State certification of the preceding year. Whenever any nursery or independent unit thereof in the regulated area, or any shipment therefrom, is reported by a State inspector to be appreciably infested with either the gypsy moth or the brown-tail moth, or whenever such infestation is determined

*For statutory citation, see note to § 301.45.

†For source citation, see note to § 301.45-1.

by a Federal inspector, further certification for interstate movement from such nursery, or independent unit thereof, will be refused until such nursery has been freed from infestation and has been again inspected and certified by the State to be apparently clean except that during such periods of refusal, Federal inspection and certification of individual shipments of nursery stock from nurseries being freed from infestation may be given provided a special certificate showing freedom from infestation has been issued therefor by a State inspector after examination of the material in each such shipment. During the larval period of the gypsy moth all nursery stock shall be assembled for the examination of the Federal inspector, and if passed by him as free from any infestation, either by egg masses or larvae, it may then be lined up and thoroughly sprayed under the direction of and in manner and method satisfactory to the said inspector, who will certify each shipment as having been thus inspected and treated.

(c) *Native trees and shrubs.* With respect to living trees and plants not grown in nurseries, inspection and certification for interstate movement will be conditioned upon the presentation of a statement by the applicant specifying the exact source of such trees and plants, and in addition to such statement, if dug on land other than the property of the applicant, a permit from the owner of the said land authorizing such digging, provided such permit is required under the law of the State wherein the land is situated. If the inspection of the trees or plants intended for shipment discloses infestation with either the gypsy moth or brown-tail moth, certification may be refused as to the intended shipment and as to other similar shipments of trees or plants originating on the same property or in the same locality.

(d) *Forest products and stone and quarry products.* Certificates of inspection authorizing the interstate movement of forest products and stone and quarry products may be issued under either of the following conditions: (1) When the articles to be moved interstate have actually been inspected and found free from infestation; or (2) when the

articles have been disinfected under the supervision of an inspector in such a manner as to eliminate all risk of infestation. With respect to quarries, and with respect to yards or other places where forest products are assembled for shipment, as a condition of inspection and certification, the premises or surroundings of such places shall be cleaned up and kept free from gypsy moth infestation.

(e) *Charges for storage.* All charges for storage, cartage, and labor incident to inspection or disinfection other than the services of the inspectors shall be paid by the shipper.

(f) *Use of certificates.* Certificates of inspection will be issued only for plants and plant products and stone and quarry products which are free from infestation by the gypsy moth and the brown-tail moth and have been so determined by an inspector. The use of such certificates in connection with plants and plant products and stone and quarry products which are not in compliance with these regulations is unlawful.

(g) *Report of certificates.* Persons to whom certificates are issued shall report at time of shipment on forms provided for that purpose all their sales or shipments of such articles to points outside the regulated area.*†

§ 301.45-5 *Conditions governing the issuance of permits without inspection, and the reporting of shipments.* Permits authorizing interstate movement of restricted articles may be issued (1) when such products have been grown, or manufactured, processed, and stored in such a manner that, in the judgment of the inspector, no infestation could be transmitted, and (2) when such products originate outside of the infested areas and, while within the infested area, have been stored and safeguarded in such a manner that, in the judgment of the inspector, no infestation could be transmitted. Permits will be issued only for plants and plant products and stone and quarry products which are not infested with the gypsy moth or brown-tail moth.

Persons to whom permits are issued shall report at time of shipment on forms provided for that purpose all their sales or shipments of such articles to points outside the regulated area.*†

§ 301.45-6 *Marking and certification a condition of interstate transportation.* (a) Every box, basket, bale, or other container of the articles restricted for which a certificate or permit is required by these regulations shall be plainly marked with the name and address of the consignor and the name and address of the consignee, and the shipper shall securely attach to the outside thereof a valid certificate or permit issued in compliance with these regulations. In the case of lot shipments by freight, one certificate attached to one of the containers and another certificate attached to the waybill will be sufficient.

(b) In the case of bulk carload shipments by rail, the certificate shall accompany the waybill, conductor's manifest, memorandum, or bill of lading pertaining to such shipment, and in addition each car shall have securely attached to the outside thereof a placard showing the number of the certificate or certificates accompanying the waybill.

(c) In the case of shipment by road vehicle, the certificates shall accompany the vehicle.

(d) Certificates shall be surrendered to the consignee upon delivery of the shipment.*†

§ 301.45-7 *Thorough cleaning required of cars, boats, and other vehicles before moving interstate.* Cars, boats, and other vehicles which have been used in transporting restricted articles within the regulated areas shall not be moved interstate until the same shall have been thoroughly swept out and cleaned by the carrier at the point of unloading or destination of all litter and rubbish from such regulated articles. No litter, rubbish, or refuse from any such restricted articles shall be moved interstate.*†

§ 301.45-8 *Inspection in transit.* Every car, vehicle, basket, box, bale, or other container moved interstate which contains or which the inspector has probable cause to believe contains either infested articles or articles the movement of which is prohibited or restricted by these regulations, shall be subject to inspection by an inspector at any time or place.*†

§ 301.45-9 *Cancellation of certificates and permits.* Certificates and permits

issued under these regulations may be withdrawn or canceled by the inspector and further certification refused, whenever in the judgment of the inspector the further use of such certificates might result in the dissemination of infestation.*†

§ 301.45-10 *Shipments for experimental, scientific, or educational purposes.* Articles subject to restriction in these regulations may be moved interstate for experimental, scientific, or educational purposes, on such conditions and under such safeguards as may be prescribed by the Bureau of Entomology and Plant Quarantine. The container of articles so moved, shall bear, securely attached to the outside thereof, an identifying tag from the Bureau of Entomology and Plant Quarantine.*†

Japanese Beetle

QUARANTINE

§ 301.48a *Administrative instructions; articles exempted from restriction.* In accordance with the third proviso in § 301.48 the following articles, being considered innocuous as carriers of infestation are exempted from the restrictions of § 301.48 and of the regulations supplemental thereto:

(a) Balsam pillows, when composed of balsam needles only.

(b) Banana stalks, when crushed, dried, and shredded.

(c) Dyed moss and dyed sand, when heat treated, and when so labeled on the outside of each container of such materials.

(d) Floral designs or "set pieces," including wreaths, sprays, casket covers, and all formal florists' designs. Bouquets and cut flowers not so prepared are not exempted.

(e) Herbarium specimens, when dried, pressed, and treated, and when so labeled on the outside of each container of such materials.

(f) Manure, peat, compost, or humus (1) when dehydrated and either shredded, ground, pulverized, or compressed, or (2) when treated with crude petroleum or any other product having high potency as an insecticide, and when so labeled on the outside of each commer-

*For statutory citation, see note to § 301.45.

†For source citation, see note to § 301.45-1.

cial container of such materials. (See also paragraph (m).)

(g) Moss, sheet (*Calliargon schriberi* and *Thuridium recognitum*).

(h) Mushroom spawn, in brick, flake, or pure culture form.

(i) Orchids, cut.

(j) Orchid plants, when growing exclusively in *Osmunda* fiber.

(k) *Osmunda* fiber, *Osmundine*, or orchid peat (*Osmunda cinnamomea*, and *O. claytoniana*).

(l) Resurrection plant or birds'-nest moss (*Selaginella lepidophylla*).

(m) Sphagnum moss, bog-moss, or peat moss (*Sphagnaceae*) when dried and baled. (See also paragraph (f).)

(n) Trailing-arbutus, or Mayflower (*Epigaea repens*), when free from soil or primary roots, and when shipped during the period between October 16 and June 14, inclusive. (Issued under § 301.48) [BEPQ 395 (3d Rev.), Chief, BEPQ, Oct. 26, 1938; 3 F.R. 2567]

RULES AND REGULATIONS

§ 301.48-5 *Restrictions on the movements of fruits and vegetables.*

NOTE: Paragraph (a) (1) of this section was amended by advancing the termination of restrictions from October 16, to September 20, 1938, by Order, Sec. Agric., Sept. 19, 1938; 3 F.R. 2264. The order was applicable to the year 1938 only.

§ 301.48-5a *Administrative instructions; fumigation of onions by methyl bromide*¹—(a) *Authority.* Section 301.48-5 (c) authorizes the issuance of certificates for the interstate movement of onions via refrigerator car from the area listed in that section to points outside the regulated areas between June 15 and October 15 when the onions have been fumigated in the car, when deemed necessary in the judgment of the inspector and when the doors and hatches of the car have been tightly closed or

adequately screened under the supervision of an inspector.

(b) *Treatment authorized.* The treatment described herein has been found to be effective against the Japanese beetle and such treatment is authorized as a basis for certification of onions moving to points outside the regulated areas between June 15 and October 15 via refrigerator car when such treatment is carried out under the supervision of an inspector and in a manner satisfactory to him.

(c) *Treatment method.* Fumigation of onions in dry refrigerator cars with methyl bromide at a dosage of 2 pounds per 1,000 cubic feet of space, including the space occupied by the onions and bunkers of the cars, for a period of 2 hours, during which time the car shall remain tightly closed with the plugs in place in the ventilator hatches. The temperature within the car when fumigated shall be not less than 70° F. Provision shall be made for circulating the mixture of air and fumigant in the car for as long a time as is deemed necessary by the inspector. At the end of the fumigation period the hatches shall be opened, the plugs removed, screens placed in the hatch openings, and the car shipped under standard ventilation.

In authorizing the movement of onions fumigated according to the requirements stated above, it is to be understood that no liability shall attach either to the United States Department of Agriculture or to any of its employees in the event of injury. (Issued under § 301.48-5 (c)) [BEPQ 475, Chief, BEPQ, July 14, 1938; 3 F.R. 1769]

§ 301.48-5b *Administrative instructions; fumigation of tomatoes by methyl bromide*²—(a) *Authority.* Section 301.48-5 (c) authorizes the issuance of certificates for the interstate movement of fruits and vegetables via refrigerator

¹ *Caution.* Methyl bromide is a gas at ordinary temperatures. It is colorless and practically odorless in concentration used for the fumigation of onions. It is a poison, and the operator should use an approved gas mask when exposed to the gas at concentrations used in fumigation, and when opening the hatches for ventilating the cars. The car should not be entered until it is well aerated.

² *Caution.* Methyl bromide is a gas at ordinary temperatures. It is colorless and practically odorless in concentration used for the fumigation of tomatoes. It is a poison, and the operator should use an approved gas mask when exposed to the gas at concentrations used in fumigation, and when opening the hatches for ventilating the cars. The car should not be entered until it is well aerated.

car from the area listed in that section to points outside the regulated areas between June 15 and October 15 when they have been handled or treated under the supervision of an inspector in manner and by method to free them from any infestation.

(b) *Treatment authorized.* The treatment described herein has been found to be effective against the Japanese beetle and such treatment is authorized as a basis for certification of tomatoes moving to points outside the regulated areas between June 15 and October 15 via refrigerator car when such treatment is carried out under the supervision of an inspector and in a manner satisfactory to him.

(c) *Treatment method.* Fumigation of tomatoes in dry refrigerator cars with methyl bromide at a dosage of 2 pounds per 1,000 cubic feet of space, including the space occupied by the tomatoes and bunkers of the cars, for a period of 2 hours, during which time the car shall remain tightly closed with the plugs in place in the ventilator hatches. The temperature within the car when fumigated shall be not less than 70° F. Provision shall be made for circulating the mixture of air and fumigant in the car for as long a time as is deemed necessary by the inspector. At the end of the fumigation period the hatches shall be opened, the plugs removed, screens placed in the hatch openings, and the car shipped under standard ventilation.

In authorizing the movement of tomatoes fumigated according to the requirements stated above, it is to be understood that no liability shall attach either to the United States Department of Agriculture or to any of its employees in the event of injury. (Issued under § 301.48-5) [BEPQ 480, Chief, BEPQ, Aug. 18, 1938; 3 F.R. 2048]

Pink Bollworm

RULES AND REGULATIONS

§ 301.52-3 *Regulated areas; heavily and lightly infested areas*—(a) *Regulated areas.* In accordance with the provisions to § 301.52, the Secretary of Agriculture designates as regulated areas for the purpose of these regulations, the following counties and parts of counties in Arizona, New Mexico, and Texas:

Arizona area. Counties of Cochise, Graham, Greenlee, Maricopa, Pinal, and Santa Cruz, and all of Pima County except that part lying west of the western boundary line of range 8 east.

New Mexico area. Counties of Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Roosevelt, Sierra, Socorro, and Valencia.

Texas area. Counties of Andrews, Brewster, Brooks, Cameron, Cochran, Crane, Culberson, Dawson, Ector, El Paso, Gaines, Glasscock, Hidalgo, Hockley, Howard, Hudspeth, Jeff Davis, Jim Wells, Kenedy, Kleberg, Loving, Martin, Midland, Nueces, Pecos, Presidio, Reeves, Starr, Terrell, Terry, Upton, Ward, Willacy, Winkler, and Yoakum; that part of Bailey County lying south of the following-described boundary line: beginning on the east line of said county where the county line intersects the northern boundary line of league 207; thence west following the northern boundary line of leagues 207, 203, 191, 188, 175, and 171 to the northeast corner of league 171; thence south on the western line of league 171 to the northeast corner of the W. H. L. survey; thence west along the northern boundary of the W. H. L. survey and the northern boundary of sections 68, 67, 66, 65, 64, 63, 62, 61, and 60 of block A of the M. B. and B. survey to the western boundary of said county; that part of Lamb County lying south of the following-described boundary line: beginning on the east line of said county where the county line intersects the northern boundary line of section 9 of the R. M. Thomson survey; thence west following the northern boundary line of sections 9 and 10 of the R. M. Thomson survey and the northern boundary line of sections 6, 5, 4, 3, 2, and 1 of the T. A. Thompson survey and the northern boundary line of leagues 637, 636, and 635 to the southeast corner of league 239; thence north on the eastern boundary line of league 239 to the northeast corner of said league; thence west on the northern boundary line of leagues 239, 238, 233, 222, 218, and 207 to the western boundary line of said county.

(b) *Heavily infested areas.* Of the regulated areas, the following counties and parts of counties are hereby designated as heavily infested within the meaning of these regulations:

Counties of Brewster, Culberson, Jeff Davis, Presidio, and Terrell, in the State of Texas, and all of Hudspeth County in the same State except that part of the northwest corner of said county lying north and west of a ridge of desert land extending from the banks of the Rio Grande northeasterly through the desert immediately west of the town of McNary, such ridge being an extension of the northwest boundary line of section 11, block 65½.

(c) *Lightly infested areas.* The following areas are designated as lightly infested:

The counties of Cochise, Graham, Greenlee, Maricopa, Pinal, and Santa Cruz, and the regulated part of Pima County in Arizona;¹ the counties of Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Roosevelt, Sierra, Socorro, and Valencia in New Mexico; the entire counties of Andrews, Brooks, Cameron, Cochran, Crane, Dawson, Ector, El Paso, Gaines, Glasscock, Hidalgo, Hockley, Howard, Jim Wells, Kenedy, Kleberg, Loving, Martin, Midland, Nueces, Pecos, Reeves, Starr, Terry, Upton, Ward, Willacy, Winkler, and Yoakum, the regulated parts of Bailey and Lamb Counties in Texas, and that part of the northwest corner of Hudspeth County, Tex., lying north and west of a ridge of desert land extending from the banks of the Rio Grande northeasterly through the desert immediately west of the town of McNary, such ridge being an extension of the northwest boundary line of section 11, block 65½. (39 Stat. 1165, 44 Stat. 250; 7 U.S.C. 161) [As amended Nov. 15, 1938; 3 F.R. 2735]

White-Pine Blister Rust

RULES AND REGULATIONS

§ 301.63-1 *Definitions.* For the purpose of these regulations the following words, names, and terms shall be construed, respectively, to mean:

(a) *White-pine blister rust, or blister rust.* The fungus disease caused by *Cronartium ribicola* Fischer.

¹Part of the lightly infested area in Arizona is regulated on account of the *Thurberia* weevil under § 301.61, and shipments therefrom must comply with the requirements of that quarantine.

(b) *Five-leaved pines.* Entire plants with roots, of the following species belonging to the genus *Pinus*:

American species:

- Ayacahuite pine (*P. ayacahuite* Ehrenb.).
- Bristlecone pine (*P. aristata* Engelm.).
- Foxtail pine (*P. balfouriana* Murr.).
- Limber pine (*P. flexilis* James).
- Mexican white pine (*P. strobiformis* Engelm.).
- Sugar pine (*P. lambertiana* Dougl.).
- Western white or silver pine (*P. monticola* D. Don).
- White bark pine (*P. albicaulis* Engelm.).
- White pine (northern) (*P. strobus* L.).

Foreign species:

- Balkan pine (*P. peuce* Griseb.).
- Chinese white pine (*P. armandi* Franch.).
- Himalayan or Bhotan pine (*P. excelsa* Wall.).
- Japanese white pine (*P. parviflora* Sieb. and Zucc.).
- Korean pine (*P. koraiensis* Sieb. and Zucc.).
- Swiss stone pine (*P. cembra* L.).

(c) *Currant and gooseberry plants.* Plants, cuttings, or scions, belonging to the genera *Ribes* L. and *Grossularia* (Tourn.) Mill., including cultivated or wild or ornamental sorts.

(d) *European black currant plants.* Plants, cuttings, stocks, scions, buds, seeds, or parts of plants of *Ribes nigrum* L.

(e) *Inspector.* An inspector of the United States Department of Agriculture.

(f) *Dormant.* In a nonvegetative state, with inactive buds.

(g) *Moved interstate.* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from one State or District of the United States into or through any other State or District.*†

*§§ 301.63-1 to 301.63-7, inclusive, issued under the authority contained in 39 Stat. 1165, 44 Stat. 250; 7 U.S.C. 161.

†In §§ 301.63-1 to 301.63-7, inclusive, the numbers to the right of the dash correspond

with the respective regulation numbers in Revised Rules and Regulations, Secretary of Agriculture, June 1, 1938, effective July 1, 1938; 3 F.R. 1267.

§ 301.63-2 *Control of movement of five-leaved pines.* (a) Five-leaved pines shall not be moved interstate into any of the States of Arizona, Colorado, Georgia, Kentucky, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Utah, or Wyoming, nor into that part of California lying south of the south line of the counties of Humboldt, Trinity, Tehama, Butte, Plumas, and Lassen: *Provided*, That no restrictions are placed on the interstate movement of such pines from or between any of the 11 above-named entire States nor from the part of California described.

(b) Five-leaved pines or parts thereof, when visibly infected with the white-pine blister rust shall not be moved interstate into any State or District unless such pines are shipped in a preservative or are authorized and labeled in accordance with the provisions of § 301.63-7.*†

§ 301.63-3 *Control of movement of currant and gooseberry plants.*—(a) *Embargo on European black currant plants.* No European black currant plants (*Ribes nigrum*) and no currant plants of the wild native western species known as *R. bracteosum* and *R. petiolare* shall be moved interstate in the continental United States except into or within the area comprised in the States of Alabama, Arkansas, Florida, Kansas, Louisiana, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

(b) *Control-area permits required.* No currant or gooseberry plants of any species or variety shall be moved interstate into any of the States of California,¹ Connecticut, Georgia,¹ Idaho, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, North Carolina,¹ Ohio, Pennsylvania, Rhode Island, Tennessee,¹ Vermont, Virginia, Washington, West Virginia, or Wisconsin, unless a Federal control-area permit has been issued therefor by an inspector designated to act for the Bureau of Entomology

and Plant Quarantine in such State. Such permit will not be issued if the plants are to be shipped into or planted in areas in which five-leaved pines have been protected from white-pine blister rust or in which such protection is contemplated. The continuance of this requirement as to any State is conditioned on the State providing such legal or other control on the planting and movement therein of currant and gooseberry plants as in the judgment of the Secretary of Agriculture may be deemed adequate to control white-pine blister rust in the protected areas.

(c) *Dipping or dormancy required.* No currant or gooseberry plants of any species or variety shall be moved interstate into any of the States of Arizona, Colorado, Georgia,² Kentucky, Nevada, New Mexico, North Carolina,² South Carolina, Tennessee,² Utah, or Wyoming, nor into that part of California² lying south of the south line of the counties of Humboldt, Trinity, Tehama, Butte, Plumas, and Lassen, unless such plants have either been dipped (except the roots) immediately prior to shipment in lime-sulphur solution of a strength of 4.5° B.,³ or are shipped in a dormant and defoliated condition. Such lime-sulphur dip shall be plainly visible on said plants and be easily detectable by odor, the judgment of the inspector to be final as to adequacy of the dip and as to the condition of the plants as to dormancy or defoliation: *Provided*, That no such dipping or dormancy restrictions are placed on the interstate movement of currant and gooseberry plants from or between any of the 11 above-named entire States, nor from the part of California described.*†

§ 301.63-4 *Marking requirements.* (a) Every box, bale, or other container of plants for which permits are required by §§ 301.63-3 and 301.63-7 shall be plainly marked with the name and address of the consignor and of the consignee, and shall bear the permit securely attached to the outside thereof.

² Control-area permits are also required for shipments to these States. See paragraph (b).

³ Prepare this solution by diluting 1 part of commercial concentrated lime-sulphur solution of 32° B. with 8 parts of water.

¹ Dormancy and defoliation or lime-sulphur dip is also required for shipments to these States (see paragraph (c)).

(b) The permit in the case of car-load shipments by rail shall accompany the waybill, conductor's manifest, memorandum, or bill of lading pertaining to such shipment. In the case of shipment by road vehicle, the permit shall accompany the vehicle.*†

§ 301.63-5 *Inspection in transit.* Every car, vehicle, box, bale, or other container moved interstate or offered to a common carrier for shipment interstate, which contains or which the inspector has probable cause to believe contains either infected articles or articles the movement of which is prohibited or restricted by these regulations, shall be subject to inspection by an inspector at any time or place.*†

§ 301.63-6 *Cancellation of permits.* Permits issued under these regulations may be withdrawn or canceled and further permits refused, whenever in the judgment of the Bureau of Entomology and Plant Quarantine, the further use of such permits might result in the dissemination of the white-pine blister rust. After any such permit is withdrawn or has expired, the further use of any permit tags issued thereunder is prohibited.*†

§ 301.63-7 *Shipments for reforestation, experimental, educational, or scientific purposes.* Plants subject to restriction in these regulations may be moved interstate for reforestation purposes on Federal lands, or for experimental, educational, or scientific purposes on such conditions and under such safeguards as may be prescribed by the Bureau of Entomology and Plant Quarantine. The container of plants so moved, except when shipped to or in care of the Inspection House, Bureau of Entomology and Plant Quarantine, Washington, D. C., shall bear, securely attached to the outside thereof, an identifying tag from the Bureau of Entomology and Plant Quarantine.

Identifying tags to authorize the interstate movement of five-leaved pines for planting on Federal lands in any of the 11 entire States named and part of California described in § 301.63-2, will be issued only on condition that such pines have been raised under such sanitation conditions as in the judgment of the Bureau of Entomology and Plant Quarantine

are adequate to protect them from infection by white-pine blister rust: *Provided*, That no permit is required for shipping such pines from or between any of the 11 entire States named nor from the part of California described.*†

White-Fringed Beetle

QUARANTINE

§ 301.72 *Notice of quarantine.* I, H. A. Wallace, Secretary of Agriculture, have determined that a quarantine of the States of Alabama, Florida, Louisiana, and Mississippi is necessary to prevent the spread of dangerous infestations of the white-fringed beetle (*Naupactus leucoloma* Boh.), and a closely related species of *Naupactus*, two insect pests not widely prevalent within and throughout the United States.

Now, therefore, under authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315; 7 U.S.C. 161), as amended, and having given the public hearing required thereby,¹ I do quarantine the States of Alabama, Florida, Louisiana, and Mississippi and do order that (1) nursery stock or any other plants or plant products; (2) soil, independent of, or used in connection with nursery stock, plants or plant products; or (3) other articles (as specifically named in the regulations supplemental hereto, in modifications thereof, or in administrative instructions as provided in the regulations supplemental hereto) which are capable of carrying the aforesaid insect infestations, shall not be shipped or offered for shipment to a common carrier by any person, or received for transportation or transported by a common carrier, or carried or transported by any person from any such State into or through any other State or Territory or District of the United States, under conditions other than those prescribed in the regulations supplemental hereto: *Provided*, That the restrictions of this section and of the regulations supplemental hereto may be limited to such areas, designated by the Secretary of Agriculture as regulated areas, in the quarantined States, as, in his judgment, shall be adequate to

¹ 3 F.R. 2045.

prevent the spread of the said pest or pests. Any such limitation shall be conditioned, however, upon the affected State or States providing for and enforcing the control of the intrastate movement of the restricted articles under the conditions which apply to their interstate movement under existing provisions of the Federal quarantine regulations, and upon their enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of the Secretary of Agriculture, shall be deemed adequate to prevent the intrastate spread therefrom of said insect infestation: *And provided further*, That whenever, in any year, the Chief of the Bureau of Entomology and Plant Quarantine shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the regulations supplemental hereto apply, making it safe to modify, by making less stringent, the restrictions contained in any such regulation, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulation should be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.* [Notice of Quarantine No. 72, Dec. 14, 1938; 3 F.R. 3003]

*§§ 301.72 to 301.72-9, inclusive, issued under the authority contained in 39 Stat. 1165, 44 Stat. 250; 7 U.S.C. 161.

REGULATIONS

§ 301.72-1 *Definitions*—(a) *The pests*. The white-fringed beetle, *Naupactus leucoloma* Boh., and a closely related species of *Naupactus*, in any stage of development.

(b) *Adults and larvae*. Adults and larvae of *Naupactus leucoloma* and a closely related species of *Naupactus*.

(c) *Regulated area*. Any area in a quarantined State which is now, or which may hereafter be, designated as regulated by the Secretary of Agriculture in accordance with the provisos to § 301.72.

(d) *Restricted articles*. Products or articles of any character whatsoever, the interstate movement of which is restricted by the provisions of § 301.72, and regulations supplemental thereto.

(e) *Inspector*. Duly authorized Federal plant-quarantine inspector.

(f) *Certificate*. An approved document, issued by an inspector, evidencing the apparent freedom of restricted articles from the pests.

(g) *Limited permit*. An approved document, issued by an inspector, to allow movement of noncertified, restricted articles to or from designated and authorized manufacturing plants, mills, gins, or processing plants.

(h) *Dealer-carrier permit*. An approved document issued to persons or firms approved for, and engaged in purchasing, assembling, exchanging, processing, or transporting restricted articles.

(i) *Administrative instructions*. Administrative instructions issued by the Chief of the Bureau of Entomology and Plant Quarantine.

(j) *Infested or infestation*. Infested by the white-fringed beetle, the closely related species, or both such pests, in any stage of development.*†

†In §§ 301.72-1 to 301.72-9, inclusive, the numbers to the right of the dash correspond with the respective regulation numbers in Regulations, Secretary of Agriculture, Dec. 14, 1938, effective Jan. 15, 1939; 3 F.R. 3004.

§ 301.72-2 *Regulated areas*. The following counties, parishes, cities and towns or parts thereof, as described, are designated by the Secretary of Agriculture as regulated areas:

Alabama. In Conecuh, Monroe, and Wilcox Counties: The W $\frac{2}{3}$ Tps. 5 and 6 N. and all of Tps. 7, 8, 9, 10, and S $\frac{1}{2}$ T. 11 N., R. 9 E. All of Tps. 5, 6, 7, 8, 9, and S $\frac{1}{2}$ T. 10 N., R. 8 E. Secs. 25, 26, 35, and 36, T. 7 N., R. 7 E., and Secs. 1 and 2, T. 6 N., R. 7 E.; in Covington County: T. 1 N., Rs. 17 and 18 E. and SE $\frac{1}{4}$ T. 1 N., R. 16 E. and all south of both areas to the Alabama-Florida State line; in Geneva County: Secs. 31, 32, and 33, T. 1 N., R. 19 E. and south thereof to the Alabama-Florida State line; in Mobile County: That area bound on the east by Mobile River, on the south by Congress Street and a line extended therefrom to Mobile River in the city of Mobile, on

the west by Joachim Street in the same city, to its intersection with One Mile Creek; thence northeast along One Mile Creek to Conception Street Road; thence northwest on said road to Three Mile Creek; thence east along Three Mile Creek to Mobile River.

Florida. In Escambia County: All of the city of Pensacola; in Okaloosa County: T. 5 N., R. 22 W. and Secs. 1, 2, and 3 of T. 5 N., R. 23 W. and all lands north of both areas to the Florida-Alabama State line; in Walton County: T. 5 N., Rs. 20 and 21 W. and Secs. 31, 32, and 33, T. 6 N., R. 19 W. and all lands north of both areas to the Florida-Alabama State line; also Secs. 1-24 inclusive of T. 4 N., R. 19 W.

Louisiana. All of Orleans Parish including the city of New Orleans, and all of Saint Bernard Parish; in East Baton Rouge Parish: T. 7 S., Rs. 1 and 2 E. and 1 W., including all of the city of Baton Rouge; in Jefferson and Plaquemines Parishes: Those parts lying north of the township line between Tps. 14 and 15 S.

Mississippi. In Harrison and Stone Counties: That area bound by the east line of sec. 31, T. 7 S., R. 10 W. extending from a point where it intersects or would intersect with the Mississippi Sound if extended without change in direction to said sound; thence north to Bayou Bernard; thence following a general northwesterly direction along Bayou Bernard to east line of sec. 22, T. 7 S., R. 11 W., thence north to intersection with Biloxi River, thence northwest along Biloxi River to intersection with the east line of sec. 5, T. 6 S., R. 11 W., thence north to SE corner sec. 32, T. 3 S., R. 11 W., thence west along township line to SE corner sec. 34, T. 3 S., R. 12 W., thence south to a point where the east line of sec. 15, T. 7 S., R. 12 W. intersects Landon Road, thence west along Landon Road to intersection of east line of sec. 9, T. 7 S., R. 12 W., thence south to Mississippi Sound, thence along the sound to starting point and including all property extending onto or over the waters of Mississippi Sound; in Hinds County: E½ T. 6 N., R. 3 W., and W⅓ T. 6 N., R. 2 W.; in Jackson County: That area included within a boundary beginning at SE corner sec. 31, T. 7 S., R. 5 W., and extending north to Escatawpa River; thence west along said river to the Pascagoula River, thence

south along Pascagoula River to township line between Tps. 7 and 8 S., thence east along the said township line to the starting point; in Jones County: That area included within a boundary beginning at SW corner sec. 14, T. 8 N., R. 12 W., thence east to SE corner sec. 16, T. 8 N., R. 11 W., thence north to NE corner sec. 9, T. 8 N., R. 11 W., thence east to NE corner sec. 11, T. 8 N., R. 11 W., thence north to NE corner sec. 26, T. 9 N., R. 11 W., thence west to SE corner sec. 21, T. 9 N., R. 11 W., thence north to NE corner sec. 16, T. 9 N., R. 11 W., thence west to NW corner sec. 14, T. 9 N., R. 12 W., thence south to Tallahoma Creek, thence southerly along said creek to its intersection with the west line of sec. 11, T. 8 N., R. 12 W., thence south to starting point; in Pearl River County: All of T. 5 S., R. 16 W., and E½ T. 5 S., R. 17 W.*†

§ 301.72-3 *Restricted articles*—(a) *Carriers of larvae.* The interstate movement of the following articles from the regulated areas is regulated throughout the year:

(1) Soil, earth, sand, clay, peat, compost, and manure whether moved independent of, or in connection with or attached to nursery stock, plants, products, articles, or things.

(2) Potatoes and sweetpotatoes.

(b) *Carriers of eggs and adults.* Except as provided in § 301.72-4 hereof, the interstate movement from any regulated area of the following products is regulated for the periods indicated:

(1) From June 1 to November 30, inclusive, of each year. (i) Sweetpotato vines, draws, and cuttings.

(ii) Cordwood, pulpwood, stumpwood, and logs.

(iii) Unused lumber, timbers, posts, poles, and cross ties.

(2) From June 1 to January 31, inclusive, of any 12-month period.

(i) Hay, roughage of all kinds, straw, leaves, and leaf mold.

(ii) Peas, beans, and peanuts in shells, or the shells of any of these products.

(iii) Seed cotton, cottonseed, baled cotton lint, and linters.

(iv) Used implements and machinery, scrap metal, junk, and utensils or containers coming in contact with the ground.

*For statutory citation, see note to § 301.72.

†For source citation, see note to § 301.72-1.

(v) Brick, tiling, stone, and concrete slabs and blocks.

(vi) Used lumber, timbers, posts, poles, crossties, and other building materials.

(vii) Nursery stock and other plants, which are free from soil.

(c) *Designation of other restricted articles.* Any other articles which, by reason of exposure or surroundings, may be found by the Chief of the Bureau of Entomology and Plant Quarantine to serve as carriers of the pest in any stage of development and which are so designated by him in administrative instructions, shall thereafter be subject to the restrictions of § 301.72 and the regulations supplemental thereto.*†

§ 301.72-4 *Conditions governing interstate movement of restricted articles.*

(a) Restricted articles shall not be moved interstate from a regulated area to or through any point outside thereof unless accompanied by a valid inspection certificate issued by an inspector: *Provided*, That certification requirements as they relate to part or all of any regulated area and as they pertain to carriers of adults and eggs, may be waived, during part or all of the year, by the Chief of the Bureau of Entomology and Plant Quarantine, on his finding and giving notice thereof, in administrative instructions, that the State concerned has promulgated and enforced adequate sanitary measures on and about the premises on which restricted articles originate or are retained, or that adequate volunteer sanitary measures have been applied, or that other control or natural conditions exist which have eliminated the risk of egg or adult contamination.

(b) No certificates are required for interstate movement of regulated articles when such movement is wholly within contiguous regulated areas.*†

§ 301.72-5 *Conditions governing the issuance of certificates and permits—*

(a) *Approved methods.* Certificates authorizing the interstate movement of soil, earth, sand, clay, peat, compost, or manure, originating in an infested area, may be issued only when such articles have been treated, fumigated, sterilized, or processed under methods approved by the Chief of the Bureau of Entomology and Plant Quarantine.

(b) *Determination by inspector.* Certificates authorizing the interstate movement of soil, earth, sand, clay, peat, compost, or manure, originating in noninfested parts of a regulated area, and of all other restricted articles from any part of a regulated area, may be issued upon determination by the inspector that the articles are (1) apparently free from infestation; or (2) have been treated, fumigated, sterilized, or processed under approved methods; or (3) were grown, produced, manufactured, stored, or handled in such a manner that, in the judgment of the inspector, no infestation would be transmitted thereby.

(c) *Limited permits for manufacturing and processing purposes.* Limited permits may be issued for the movement of noncertified restricted articles to such manufacturing or processing plants, mills, or gins in nonregulated areas as may be authorized and designated by the Chief of the Bureau of Entomology and Plant Quarantine, for manufacture, processing, or treatment. As a condition of such authorization and designation, manufacturing or processing plants, mills, or gins in nonregulated areas shall agree in writing to maintain such sanitary safeguards against the establishment and spread of infestation and to comply with such restrictions as to the handling and subsequent movement of restricted products as may be required by the inspector.

(d) *Dealer-carrier permit.* As a condition of issuance of certificates or permits for the interstate movement of restricted articles, all persons or firms engaged in purchasing, assembling, exchanging, processing, or carrying such restricted articles originating or stored in regulated areas, shall make application for a dealer-carrier permit to the Bureau of Entomology and Plant Quarantine, stipulating that the permittee will maintain an accurate record of receipts and sales, shipments, or services, when so required, which records shall be available at all times for examination by an inspector; and that he will carry out, under a signed agreement, any and all conditions, treatments, precautions, and sanitary measures which may be specified therein.*†

§ 301.72-6 *Certification a condition of interstate movement.* Unless ex-

*For statutory citation, see note to § 301.72.

†For source citation, see note to § 301.72-1.

empted by administrative instructions issued by the Chief of the Bureau of Entomology and Plant Quarantine, every container of restricted articles moved interstate from any regulated area shall have securely attached to the outside thereof a certificate or permit issued in compliance with these regulations, except that the certificate or permit issued (1) for lot shipments by freight shall be attached to one of the containers and a duplicate thereof shall be attached to the waybill, (2) for shipments by road vehicle shall accompany the vehicle, (3) for bulk carload shipments by freight shall accompany the waybill or conductor's manifest.*†

§ 301.72-7 *Assembly of restricted articles for inspection.* Persons intending to move restricted articles interstate shall make application for certification as far as possible in advance of the probable date of shipment. Applications must show the nature and quantity of articles to be moved, together with their exact location, and if practicable, the contemplated date of shipment. Applicants for inspection may be required to assemble or indicate the articles to be shipped so that they may readily be examined by the inspector.

The United States Department of Agriculture will not be responsible for any cost incident to inspection or treatment other than the services of the inspector.*†

§ 301.72-8 *Cancellation of permits.* Certificates or permits issued under these regulations may be withdrawn or canceled and further certification refused whenever, in the judgment of the Bureau of Entomology and Plant Quarantine, the further use of such certificates or permits might result in the dissemination of infestation.*†

§ 301.72-9 *Shipments for experimental and scientific purposes.* Articles subject to restrictions may be moved interstate for experimental or scientific purposes, on such conditions as may be prescribed by the Chief of the Bureau of Entomology and Plant Quarantine. The container of articles so moved shall bear an identifying tag from the Bureau of Entomology and Plant Quarantine.*†

PART 319—FOREIGN QUARANTINE NOTICES

Nursery Stock, Plants, and Seeds

RULES AND REGULATIONS

§ 319.37-3 *Nursery stock, other plants and parts of plants, including seeds, for which a permit is required.* The following nursery stock, other plants and parts of plants, including seeds, not including, however, such other plants and parts of plants which are governed by special quarantines and other restrictive orders now in force, nor such as may hereafter be made the subject of special quarantines, may be imported, without limitation as to quantity or use, from countries which maintain inspection, under permit upon compliance with these regulations:

(1) Bulbs, corms, or root stocks (pips) of the following genera: *Lilium* (lily), *Convallaria* (lily-of-the-valley), *Hyacinthus* (hyacinth), *Tulipa* (tulip), *Crocus*, and *Narcissus* (daffodil and jonquil); until further notice, *Chionodoxa* (glory-of-the-snow), *Galanthus* (snowdrop), *Scilla* (squill), *Fritillaria*, *Muscari* (grape-hyacinth), *Ixia*, and *Eranthis* (winter aconite); and, on and after December 1, 1939, *Begonia* and *Gloxinia* tubers.

(2) Cuttings, scions, and buds of fruits or nuts: *Provided*, That cuttings, scions, and buds of fruits or nuts may be imported from Asia, Japan, Philippine Islands, and Oceania (including Australia and New Zealand) under the provisions of § 319.37-14 only. (Stocks of fruits or nuts may not be imported, under permit or otherwise.)

(3) Rose stocks, including Manetti, *Rosa multiflora* (brier rose), and *R. rugosa*.

(4) Nuts, including palm seeds for growing purposes: *Provided*, That such nuts or seeds shall be free from pulp.

(5) Seeds of fruit, forest, ornamental, and shade trees, seeds of deciduous and evergreen ornamental shrubs, and seeds of hardy perennial plants: *Provided*, That such seeds shall be free from pulp: *Provided further*, That citrus seeds may be imported only through specified ports subject to disinfection as provided in § 319.37-9: *Provided further*, That mango seeds may not be imported under permit

or otherwise, except from the countries of North America, Central America, and South America, and the West Indies.

Importations from countries not maintaining inspection of nursery stock, other plants and parts of plants, including seeds, the entry of which is permissible under this section, may be made under permit upon compliance with these regulations in limited quantities for public-service purposes only, but this limitation shall not apply to tree seeds.

(6) Materials permitted entry under § 319.56 for consumption purposes are authorized entry under this section for propagation. (Sec. 7, 37 Stat. 317; 7 U.S.C. 160) [As amended Nov. 30, 1938; 3 F.R. 2822]

§ 319.37-9a *Treatment requirement of noninfested Holland narcissus bulbs.* The requirement of hot-water treatment for Holland narcissus bulbs as a condition of entry is revoked, effective August 15, 1939. On and after that date, all such importations, in accordance with the provisions of § 319.37-7 shall be accompanied by a certificate certifying that the bulbs have been thoroughly inspected at the time of packing and found or believed to be free of injurious plant diseases and insect pests. Finally, upon arrival at the American ports of entry, all shipments will be examined by inspectors of the Bureau of Entomology and Plant Quarantine and this examination will include the cutting of suspicious-looking bulbs when necessary to determine their freedom from infestation by the bulb nematode. Any shipments found to be infested will be given the latest approved treatment or rejected. (Issued under § 319.37-9) [BEPQ 482, Chief, BEPQ, Nov. 10, 1938; 3 F.R. 2680]

PART 321—RESTRICTED ENTRY ORDERS

Foreign Cotton Lint

IMPORTATION OF COTTON AND COTTON WRAPPINGS

§ 321.114 *Provision for the entry via border ports of cotton lint and linters from Mexico.* Baled cotton lint and linters produced in Mexico may be imported into pink bollworm infested areas of the United States through border ports approved by the Chief of the Bureau of Entomology and Plant Quarantine for that purpose, subject to such treatment on arrival as is required under §§ 301.52-1 to 301.52-16, for the interstate movement of cotton lint and linters produced in those areas: *Provided, however,* That no cotton lint and linters produced in areas of Mexico determined by the Chief of the Bureau of Entomology and Plant Quarantine as heavily infested with the pink bollworm may enter the United States under the provisions of this section unless such areas are adjacent to heavily infested areas of the United States.

Baled cotton lint and linters produced in areas of Mexico determined by the Chief of the Bureau of Entomology and Plant Quarantine to be uninfested with the pink bollworm may be imported through border ports approved by the Chief of the Bureau of Entomology and Plant Quarantine for that purpose subject to compression at compresses designated in the permit.

This section leaves in full force and effect the provisions of § 321.111 affecting the entry of cotton grown in the Imperial Valley in the State of Lower California, Mexico. (Sec. 5, 37 Stat. 316; 7 U.S.C. 159) [As amended June 30, 1938; 3 F.R. 1619]

